



DEPARTMENT OF THE NAVY
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
1455 FRAZEE ROAD, SUITE 900
SAN DIEGO, CA 92108-4310

5720
Ser BPMO/0308
August 26, 2015

Ms. Liz Wagner
NBC Bay Area News
2450 N. First Street
San Jose, CA 95131

Dear Ms. Wagner:

This responds to your Freedom of Information Act (FOIA) request of April 8, 2015, in which you seek records related to Hunters Point Naval Shipyard. Specifically, pursuant to the FOIA you requested the following records maintained by the Department of the Navy:

- All electronic email communications, corresponding email chains and attachments from January 1, 2014 to the present between Navy RASO and Navy BRAC related to scan speed issues on Hunters Point Naval Shipyard.
- All electronic email communications, corresponding email chains and attachments from September 1, 2014 to the present between Navy RASO and Navy BRAC related to the California Department of Public Health's suspension of unrestricted release recommendations for buildings on Hunters Point Naval Shipyard.
- All electronic email communications, corresponding email chains and attachments from September 2014 to the present between Navy RASO and Navy BRAC related to the rescanning of buildings on Hunters Point Naval Shipyard for which the California Department of Public Health suspended unrestricted release recommendations.

- All electronic email communications, corresponding email chains and attachments from August 1, 2014 to the present between the Department of Navy and the California Department of Toxic Substances Control related to scan speed issues, as well as resurveys of buildings on Hunters Point Naval Shipyard for which the California Department of Public Health suspended unrestricted release recommendations.

Your request was received by this office on April 8, 2015 and assigned file number DON-NAVY-2015-005151.

On May 14, 2015 you revised your request by eliminating the request for documents between the Department of Navy and the California Department of Toxic Substances Control.

During our search we examined files maintained by Navy BRAC and Navy RASO and identified several electronic communications pertaining to scan speed issues, the California Department of Public Health's suspension of unrestricted release recommendations, and rescanning of buildings at Hunters Point Naval Shipyard as responsive to your request. The identified documents relate to an ongoing regulatory process applicable to the Navy's environmental cleanup program, which mandates public involvement in the decision process once the Navy's internal deliberations are complete. After a thorough review of the identified documents, the Navy has determined that the documents are exempt from disclosure under Exemption 5 of the FOIA [5 U.S.C 552(b)(5)].

The identified documents consist of draft documents, briefing materials and other documents that contain internal advice, recommendations and subjective evaluations pertaining to the internal decision-making process of the Navy. Release of the identified documents would have the effect of prematurely disclosing recommendations regarding the outcome of an ongoing consultative process with state and federal regulatory agencies, and would cause harm to the Navy's deliberations by discouraging the free and frank exchange of opinions. Moreover, disclosure of

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the documents could potentially result in public confusion because the advice, recommendations and evaluations in the documents may not in fact ultimately be the grounds for the agency's final decision regarding the outcome of the process.

Although portions of the identified documents could be considered factual, such information was inextricably intertwined with deliberative material, or fragmented and therefore uninformative, and therefore not releasable.

Fees associated with the processing of your request are waived in this instance.

Because your request has been denied, you are advised of your right to appeal this determination. If you have created an account in FOIA online, you may submit your appeal directly within the web-based system. To do this, log into your account, retrieve your original request and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you do not have a FOIA online account, you may send an appeal by regular mail to the Department of the Navy, Office of General Counsel (Attn: FOIA Appeals), 1000 Navy Pentagon, Room 5A532, Washington, DC 20358-1000. Your appeal must be postmarked within 60 calendar days from the date of this letter to be considered. A statement as to why your appeal should be granted should be included and a copy of this letter should be attached.

Any questions concerning this matter should be directed to Mr. Thomas Macchiarella at 619-524-0496.

I am the official responsible for the denial of your request.

Sincerely,



KIMBERLY A. OSTROWSKI